




March 22, 2019

MEMORANDUM TO ALL CONTRACTING AGENCIES OF  
THE FEDERAL GOVERNMENT

FROM: CRAIG E. LEEN   
Director  
Office of Federal Contract Compliance Programs

SUBJECT: Contracts for Nebraska Flooding Relief Efforts

In view of the special circumstances in the national interest presented by the destruction caused by the March 9, 2019 flooding in Nebraska (Nebraska Flooding), I have decided to grant a limited exemption and waiver from some of the requirements of the laws administered by the Office of Federal Contract Compliance Programs (OFCCP). OFCCP enforces Executive Order 11246 (EO 11246), as amended, Section 503 of the Rehabilitation Act (Section 503), as amended, and Section 4212 of the Vietnam Era Veterans' Readjustment Assistance Act (VEVRAA), as amended, which require that Federal contracting agencies include in all covered supply & service and construction contracts an equal opportunity clause. OFCCP regulations authorize me to exempt or waive a Federal contracting agency from requiring the inclusion of any part of the equal opportunity clause in any specific contract when I deem that special circumstances in the national interest so require. 41 CFR 60-1.5(b)(1), 60-300.4(b)(1), and 60-741.4(b)(1).

The exemption and waivers granted herein relate to the requirement to develop written affirmative action programs under OFCCP regulations implementing the three laws enforced by OFCCP. Federal contracting agencies may utilize the following equal opportunity clauses in covered contracts entered into specifically to provide Nebraska Flooding relief. Accordingly, the EEO clauses in FAR sections may be modified as follows:

*At the end of 52.222-26:*

Notwithstanding the provisions of this section, the contractor will not be obligated to develop the written affirmative action program required under the regulations implementing EO11246.

*At the end of 52.222.35:*

Notwithstanding the provisions of this section, the contractor will not be obligated to develop the written affirmative action program required under the regulations implementing VEVRAA.

*At the end of 52.222-36:*

Notwithstanding the provisions of this section, the contractor will not be obligated to develop the written affirmative action program required under the regulations implementing Section 503 of the Rehabilitation Act of 1973, as amended.

Notwithstanding the foregoing, Federal supply & service and construction contractors will continue to be subject to the nondiscrimination requirements of EO 11246, VEVRAA and Section 503, and to the following FAR requirements:

- Posting of the "Equal Opportunity is the Law" notice under all three laws;
- Record keeping and record retention requirements under all three laws; and
- Employment listings with the appropriate employment service delivery system as required under VEVRAA.

I am granting this exemption and waiver for a period of three months, from March 22, 2019 to June 22, 2019, subject to an extension should special circumstances in the national interest so require. This exemption and waiver pertain only to the three programs administered by OFCCP and should not be interpreted as applicable to any other programs or laws administered by the Department of Labor.

If you have any questions or seek additional clarification on a specific contract, please contact Kelley Smith, Chief of Staff at (202) 693-0101 or [smith.kelley.j@dol.gov](mailto:smith.kelley.j@dol.gov).